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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) No. CR-09-00871 CW
11)
Plaintiff,) **STIPULATION AND [PROPOSED]**
12) **ORDER CONTINUING STATUS**
v.) **HEARING AND SETTING BEFORE**
13) **MAGISTRATE JUDGE**
JAVIER GARCIA-ARMENTA,)
14) Hearing Date: January 20, 2010
Defendant.) Requested Date: March 4, 2010 at 9:30 a.m.
15) before the Hon. Laurel Beeler

16 The above-captioned matter is set on February 17, 2010 before the Court for a status
17 hearing. The parties jointly request that the Court continue the matter to March 4, 2010 at 9:30
18 a.m. for a change of plea hearing before the Honorable Laurel Beeler, and that the Court exclude
19 time under the Speedy Trial Act, 18 U.S.C. §§ 3161(H)(7)(A) and (B)(iv), between February 17,
20 2010 and March 4, 2010.

21 On August 27, 2009, the Grand Jury indicted Mr. Garcia-Armenta with possession with
22 the intent to distribute methamphetamine under 21 U.S.C. § 841(a)(1). He faces a maximum
23 sentence of 20-years imprisonment, although government counsel informed the defense that a
24 higher sentence may apply, including a mandatory minimum sentence, depending upon the total
25 drug amounts involved. Mr. Garcia-Armenta made his initial appearance on September 25,
26 2009.

1 The current status of the case is that the defense requires additional time to investigate
 2 this case, which the government alleges involved three undercover buys with a confidential
 3 informant. For example, the defense has requested additional discovery from the government,
 4 specifically, video and audio recordings of the three alleged controlled buys. The parties are
 5 currently negotiating how that discovery will be produced. Additionally, the parties are awaiting
 6 test results on drug evidence collected in this case from the Drug Enforcement Agency's (DEA)
 7 lab. The defense believes that all of the DEA drug lab reports are necessary so that the defense
 8 can complete an analysis of Mr. Garcia-Armenta's sentencing exposure.

9 The parties agree that the requested continuance will allow the defense to complete its
 10 investigation of the underlying facts of the case, to review necessary records and for the parties
 11 to complete plea negotiations. The parties anticipate that there will be a change of plea by the
 12 next appearance. Because Judge Wilken is unavailable in March, the parties ask that the matter
 13 be calendared before the Honorable Laurel Beeler for a change of plea hearing on March 4,
 14 2010.

15 The parties further agree that the failure to grant a continuance would unreasonably deny
 16 counsel for defendant the reasonable time necessary for effective preparation, taking into
 17 account the exercise of due diligence. For this reason, the parties stipulate and agree that the
 18 time from February 17, 2010 to March 4, 2010 should be excluded in accordance with the
 19 provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for adequate
 20 preparation of counsel.

21
 22 February 17, 2010

 /s/
 ANGELA M. HANSEN
 Assistant Federal Public Defender

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 24
 25 February 17, 2010

 /s/
 WADE RHYNE
 Assistant United States Attorney

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this e-filed document.

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby finds that the ends of justice served by the continuance requested herein outweigh the best interest of the public and the defendant in a speedy trial because the failure to grant the continuance would deny counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. The Court makes this finding because additional investigation and the production and review of certain records are necessary to the defense preparation of the case.

Based on these findings, IT IS HEREBY ORDERED THAT the STATUS hearing date of February 17, 2010 is continued to March 4, 2010 at 9:30 a.m. before the Honorable Laurel Beeler for a change of plea hearing, and it is further ordered that time is excluded from February 17, 2010 to March 4, 2010 pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

IT IS SO ORDERED.

February 16, 2010

Date



LAUREL BEELER
United States Magistrate Judge